

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DR. STEPHEN T. SKOLY, Jr.,

Plaintiff,

v.

**DANIEL J. McKEE, in his official capacity
as the Governor of the State of Rhode
Island; JAMES McDONALD, in his
official capacity as the Interim Director of
the Rhode Island Department of Health,
and MATTHEW D. WELDON, in his
official capacity as the Director of the
Rhode Island Department of Labor and
Training.**

Defendants.

C.A. 1:22-cv-00058-MSM-LDA

MOTION TO AMEND THE COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(a)(2) and Local Rule of Civil Procedure 15, Plaintiff Dr. Stephen T. Skoly, Jr., by and through undersigned counsel, moves to amend the current Second Amended Complaint. The proposed Third Amended Complaint is attached to this Motion.

A Verified Complaint was filed on February 4, 2022. It was amended as of right on February 18, 2022. On April 26, 2022, Plaintiff moved to amend the Complaint. The motion was granted on June 2, 2022. On June 28, 2022, Defendants moved to dismiss the Second Amended Complaint. The parties have stipulated that Plaintiff has until August 8, 2022 to respond to the motion to dismiss or move to amend the Complaint (and have agreed to a briefing schedule).

The current Complaint alleges four causes of action against three defendants (Governor McKee, Interim Rhode Island Department of Health (“RIDOH”) Director McDonald, and Rhode Island Department of Labor and Training (“RIDLT”) Director Weldon). The proposed Third Amended Complaint alleges the same four causes of action and adds two individuals as defendants, the current interim RIDOH Director Utpala Bandy and the prior Director Nicole Alexander-Scott (who had been a defendant in the original complaint), and the three entities at which the individuals work or worked.

The amendment is necessary for Plaintiff to allege a complete and accurate statement of his claims.

The conduct at issue concerns a state vaccine mandate. It had been thought that the mandate was in its final form when the current Complaint was proposed in April. However, after the motion to amend had been made and granted (and the Second Amended Complaint filed), Rhode Island promulgated a permanent vaccine mandate different from the one addressed in the Second Amended Complaint. The permanent mandate adversely effects the Plaintiff, and the Complaint’s allegations need to be amended to address this effect. In addition, it is necessary to bring to the Court’s attention relevant, significant factual developments, including arguably harmful conduct by Defendants and the CDC’s recent pronouncement on the subject of natural and vaccine immunity.

In terms of case development, this litigation is in an early stage. There has been no discovery, or scheduling conference or order. No defendant is prejudiced by the proposed amendment.

For the foregoing reasons, it is respectfully requested that the amendment be granted.

August 18, 2022

Respectfully submitted,

/s/ Brian Rosner

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2022, I caused to be sent via email a true and accurate copy of the within Motion to Amend to attorneys for the Defendants:

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